

HOUSE REPUBLICAN STAFF ANALYSIS

Bill: HF 430/HF 10	House Committee: PASSED on 2/21 (13-8)
Committee: Education	House Floor: PASSED on 5/3 (92-1)
Floor Manager Representative Boden	Senate Floor: PASSED on 5/2 (48-0)
Date: May 3, 2023	Governor:
Staff: Kristin Rozeboom (1-3015)	

BOEE Reform

- Analysis reflects the Senate amendment.
- Mandatory reporters shall report child abuse for all children up to 18. (Was shall report for under 12 and may report for over 12)
- Changes make-up of the BOEE board. (Amendment makes it 4 members of the general public, 8 licensed practitioners, and the Director of the Dept. or their designee)
- Schools must keep an employment history that potential employers view.
- The BOEE must track all complaints including those that are dismissed.
- Districts cannot enter into agreements that don't allow either the district or the employee to discuss the situation that leads to a termination of contract.
- Instead of fines, administrators or licensed practitioners shall have a hearing before the BOEE.

Section by Section Analysis

Section 1. Section 232.69(1)

Mandatory reporters shall report abuse of a child over 12 years old. Previously was "may" report.

Section 2. Section 232.69(1)(b)(4)

Makes all school employees who are 18 or older mandatory reporters.

Section 3. Section 232.70(5) New Paragraph

If the person who makes the report is a licensed school employee who reasonably believes the person responsible for the injury is a licensed school employee, the identity of the licensed school employee the person making the report believes is responsible for the injury must be included in the report.

Section 4. Section 256.9 New Subsection

Directs the Department of Education to develop and implement a process for the reporting and investigation of any incident that would reasonably lead to the conclusion that any individual employed by the school has committed a felony, or has committed any of the mandatory reporting situations for those licensed by the BOEE laid out in 272.15.

The process prohibits the board of a district or nonpublic school from entering into any of the following agreements:

- A written or oral agreement that prohibits the board, an employee of the district, or a contractor of the school district from discussing an incident, past performance or actions, past allegations leading to

discipline or adverse employment action, or employee resignation with any governmental agent, governmental officer, or any potential employer.

- A written or oral agreement that waives the liability of the licensed practitioner relating to or arising from an incident, past performance or actions, or past allegations of wrongdoing.

The process shall require the board to provide all documentation and information related to the incident to the BOEE for investigation if the licensed employee resigns or the contract is terminated.

The process shall require the board to finalize the investigation of the incident for an unlicensed employee if the employee resigns or the contract is terminated.

The process shall require that prior to hiring an applicant for any position, the board must conduct a review of the applicant's employment history, including contacting the applicant's previous employers listed on the application for employment and by viewing the BOEE public license information to determine if the applicant has a case pending with a finding of probably cause of any licensure sanction.

The process shall require the board to maintain on forms prescribed by the Dept. reference information related to all employees of the district and respond to any request for information from a potential employer.

This shall not be construed to require the disclosure of unfounded, closed investigations.

The school shall be immune from any civil liability arising from discussing an incident, past performance actions, or past allegations of wrongdoing with any government agent, government officer, or any potential employer.

If the BOEE finds the school has intentionally failed to follow the process established, the licensed employee or administrator shall be subject to a BOEE hearing.

If the Dept. finds the school has intentionally failed to follow the process established, any administrator shall be subject to a BOEE hearing.

If the BOEE finds that the school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident, or any conduct required to be reported related to an unlicensed employee shall be subject to a BOEE hearing.

If the Dept. finds that the school has intentionally concealed, or attempted to conceal from any governmental agent, governmental officer, or potential employer a founded incident, or any conduct required to be reported related to a licensed employee shall be subject to a BOEE hearing.

Section 5. Section 256.158A Required Annual Report to the General Assembly

Annually on or before June 30 of each year, the board shall submit to the GA a report that contains information related to the number and types of disciplinary hearings before the board, any trends in the number or types of disciplinary hearings before the board, the number of hearings requested, and any other information deemed relevant by the board in order to inform the G of the status of the enforcement of the Board's rules. The report shall not include any personally identifiable info.

Section 6. Section 256E.7(2)

Applies to charter schools

Section 7. Section 272.2(15)

The BOEE will require the board to finalize the investigation of the written complaint even if the licensed practitioner's license.

The BOEE will adopt rules that require specificity in written complaints that are filed. If the complaint is not founded, the complaint and all records shall be kept confidential and not subject to chapter 22. And require the board to finalize the investigation of the written complaint even if the licensed practitioner resigns or surrenders the licensed practitioner's license, certificate, authorization, or statement of recognition during the investigation.

Adopt rules that require the collection and retention of written complaints that are filed. If the board determines a written complaint is not founded, the complaint and all records related to the complaint shall be kept confidential and are not subject to chapter 22.

Adopt rules that require the board to notify the public when a licensed practitioner who is subject of an ongoing investigation has a case pending with a finding of probably cause. This shall not be construed to require the board to disclose unfounded, closed investigations.

Adopt rules that require the evaluation of the complaints that didn't result in any discipline or sanction if similar complaints are filed against the same licensed practitioner.

Adopt rules that require the board to investigate an administrator who is employed by the school that employs a licensed practitioner who is the subject of an investigation. The rules shall require the board to investigate whether the administrator filed a written complaint and whether the administrator was required to report to the board.

Section 8. Section 272.3

Strikes section and inserts:

Membership:

- 13 members
 - 4 members shall be members of the general public who have demonstrated an interest in education but have never held a practitioner's license. Two of the members appointed shall be the parent or guardian of a current student, shall not hold any elective office, and shall not be an employee or contractor of a school. One of the members shall have been or currently be a member of a school board.
 - 8 members are licensed practitioners. 3 shall be administrators and one shall be employee of an accredited nonpublic school. The remaining 4 members appointed shall be selected from the following areas and specialties of the teaching profession:
 - Elementary teachers
 - Secondary teachers
 - Special ed or similar teachers
 - Counselor or other special purpose practitioners
 - School service personnel
 - One member shall be the director of the Dept. or their designee.
- Membership shall be political and gender balanced.

Section 9. Section 272.4(1)

Members, except for the director or designee, shall be appointed to serve staggered terms of four years. A member shall not serve more than 2 consecutive terms except for the director who shall serve until their term expires. A member of the board who is a licensed practitioner shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:

- The license expires, is suspended, or is revoked.
- A licensed practitioner retires or terminates employment as a practitioner.
- A member dies, resigns, is removed from office, or is otherwise physically unable to perform the duties of office.
- A member's term of office expires.

Section 10. Section 280.33

The school board shall follow the process created by the Dept. of Ed. relating to the reporting and investigation of an incident involving the possible commission of a felony by any person who has been issued a license, endorsement, certification, authorization, or statement of recognition by the BOEE.

Section 11. Section 280.34 New Section—Requirement to view public license information

Prior to hiring an individual who has been issued a license by the BOEE, a school shall view the BOEE's public license information to determine if the individual has a case pending with a finding of probable cause or any licensure sanction. This shall not be construed to require the BOEE to disclose unfounded, closed investigations.

Section 12. Applicability
